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OFFICE OF PETITIONS

In re Application of
Bernard, et al.
Application No. 10/767,413
Filed: January 28, 2004
Attorney Docket No. 009584/0307533
For: SYSTEM AND METHOD FOR
PERFORMANCE MONITORING IN A PASSIVE
OPTICAL NETWORK

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO CORRECT FILING DATE," filed July 19, 2004 (certificate of mailing date July 13, 2004), requesting that the above-identified application be accorded a filing date of January 28, 2004 rather than the presently accorded filing date of January 29, 2004. The petition will be treated under 37 CFR 1.10(c).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on January 28, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV382008236US showing no "date-in" and a USPS date stamp of JAN 28 2004. The same Express Mail label number is listed on the original transmittal letter found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV382008236US was deposited with the USPS on January 28, 2004.

Accordingly, the petition is granted. Pursuant to petitioners' authorization, deposit account no. 50-2213 be credited the \$130.00 petition fee submitted with the instant petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **January 28, 2004**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions